



unanimous verdict on any count. The second trial, conducted in the fall of 2010, resulted in Mr. Ring's conviction on five counts and acquittal on three.

3. As detailed in the Pre-Sentence Investigation Report (DE 243), Mr. Ring incurred significant legal fees through the spring of 2011 in connection with his defense of this case. The two trials on Counts 1-8 occurred around the time the United States Supreme Court was considering the scope and definition of the honest services fraud statute in *Skilling v. United States*. Skilling-related issues, along with litigation of other complicated legal issues raised by the indictment in this matter, caused the cost of Mr. Ring's defense to far exceed his ability to pay. As a result, he is, at the present time and into the foreseeable future, financially unable to obtain adequate representation without having counsel appointed by this Court.

4. The government has elected to proceed to trial on Counts 9 and 10 even though it has taken the position that Mr. Ring's offense level for the convicted conduct is 43 which, under the 2010 Guidelines (which the government contends apply) correlates to a sentence of life in prison.<sup>3</sup> The government's calculation is based, in part, upon the government's contention that Mr. Ring should receive a two-level enhancement for obstruction based upon some of the conduct alleged in Counts 9 and 10 of the Indictment. The trial on the remaining counts is presently set for June 22, 2011 and the defense has filed a waiver indicating Mr. Ring's consent to a bench trial before this Court.

5. Undersigned counsel represented Mr. Ring through two trials and have invested significant time studying the issues that will decide the upcoming trial, the sentencing hearing anticipated to follow resolution of counts 9 and 10, and any appeal that will follow. Given

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<sup>3</sup> Needless to say, the defense believes that the government's position is significantly flawed and will present arguments to the Court when the pending counts are resolved and the parties move to the sentencing phase of the case.

counsel's familiarity with the issues, the defense requests that the court appoint the undersigned to continue Mr. Ring's representation.

6. The government has indicated that it does not object to undersigned counsel being appointed so long as Mr. Ring meets the eligibility requirements set forth in the Criminal Justice Act.

WHEREFORE, for the foregoing reasons, the defense moves this Honorable Court to appoint undersigned counsel to represent Kevin Ring through the remainder of the litigation in this matter pursuant to the provisions of the Criminal Justice Act, 18 U.S.C. § 3006A.

Respectfully submitted,

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